रजिस्ट्री सं० डी० 221 REGISTERED No. D 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 87] नई दिल्ली, मंगलवार, दिसम्बर 31, 1968/पौष 10, 1890
No. 87] NEW DELHI, TUESDAY, DECEMBER 31, 1968/PAUSA 10, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 31st December, 1968/Pausa 10, 1890 (Saka)

The following Act of Parliament received the assent of the President on the 31st December, 1968, and is hereby published for general information:—

THE INSURANCE (AMENDMENT) ACT, 1968

No. 62 OF 1968

[*31st December*, 1968]

An Act further to amend the Insurance Act, 1938, so as to provide for the extension of social control over insurers carrying on general insurance business and for matters connected therewith or incidental thereto, and also to amend the Payment of Bonus, Act, 1965.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Insurance (Amendment) Act, 1968. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different provisions of this Act.

Amendment of section 3.

2. In section 3 of the Insurance Act, 1938 (hereinafter referred to as the principal Act), 4 of 1938

(a) in sub-section (4),—

(i) after clause (a), the following clause shall be inserted, namely:—

"(aa) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or";

(ii) in clause (d), the words "a class of" shall be omitted;

(iii) after clause (e), the following shall be inserted, namely:—

"or

(ee) if the Central Government so directs under sub-section (4) of section 33,";

(b) in sub-section (5),—

(i) after the word, brackets and letter "clause (a),", the word, brackets and letters "clause (aa)," shall be inserted;

(ii) after the word, brackets and letter "clause (e),", the word, brackets and letters "clause (ee)," shall be inserted;

(c) in sub-section (5C),—

(i) after the word, brackets and letter "clause (a),", the word, brackets and letters "clause (aa)," shall be inserted;

(ii) after the words and figures "or section 98", the words, figures and letters "or complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities" shall be inserted.

Amendment of section 3A.

3. In section 3A of the principal Act, in sub-section (2), for the words "which shall not exceed one thousand rupees for each class of insurance business, but may vary according to the volume of business done by the insurer in India in each class of insurance business to which the registration relates", the following shall be substituted, namely:—

"which may vary according to the total gross premium written direct in India, during the year preceding the year in which the application is required to be made under this section, by the insurer in the class of insurance business to which the registration relates but shall not—

(*i*) exceed one-fourth of one per cent. of such premium income,

(*ii*) be less, in any case, than five hundred rupees for each class of insurance business:

Provided that in the case of an insurer carrying on solely re-insurance business, the provisions of this sub-section shall apply with the modification that instead of the total gross premium written direct in India, the total premiums in respect of facultative re-insurances accepted by him in India shall be taken into account.".

Amendment of section 6A.

4. In section 6A of the principal Act,—

(*a*) after sub-section (*10*), the following sub-section shall be inserted, namely:—

"(*11*) The provisions of this section, except those of sub-sections (*7*), (*8*) and (*9*), shall, on and from the commencement of the Insurance (Amendment) Act, 1968, also apply to insurers carrying on general insurance business subject to the following modifications, namely:—

47 of 1950.

(*i*) that references in sub-sections (*1*), (*3*), (*5*) and (*6*) to the Insurance (Amendment) Act, 1950, shall be construed as references to the Insurance (Amendment) Act, 1968; and

(*ii*) references in sub-section (*10*) to sub-sections (*7*) and (*8*) shall be omitted.";

(*b*) the *Explanation* shall be re-numbered as *Explanation* 1 thereof and, after *Explanation* 1, as so re-numbered, the following shall be inserted, namely:—

'*Explanation* 2.—The provisions of *Explanation* 1 shall, in their application, after the commencement of the Insurance (Amendment) Act, 1968, to insurers carrying on general insurance business, be subject to the modification that for sub-clauses (*a*) and (*b*) of clause (*ii*) thereof, the following shall be substituted, namely:—

"(*a*) by a company of which such person is a member holding more than ten per cent. of the paid-up share capital, or"'.

Amendment of section 6B.

5. In section 6B of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The provisions of this section shall, on and from the commencement of the Insurance (Amendment) Act, 1968, also apply to insurers carrying on general insurance business.".

Amendment of section 7.

6. In section 7 of the principal Act,—

(a) in sub-section (1),—

(i) for clauses (a) to (i), the following clauses shall be substituted, namely:—

"(a) where his total gross premium written direct in India in respect of general insurance business in any calendar year commencing after the 31st day of December, 1967, did not exceed rupees one crore, a sum of rupees ten lakhs,

(b) where his total gross premium written direct in India in respect of general insurance business during any calendar year referred to in clause (a) exceeded rupees one crore, a sum of rupees twenty lakhs:";

(ii) in the proviso, for the words "ten thousand rupees", the words "one hundred thousand rupees" shall be substituted;

(iii) after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that in respect of an insurer not having a share capital and carrying on only such insurance business as in the opinion of the Central Government is not carried on ordinarily by insurers under separate policies, the Central Government may, by notification in the Official Gazette, order that the provisions of this sub-section shall apply to such insurer with the modification that instead of the sum of rupees twenty lakhs or rupees ten lakhs, as the case may be, the deposit to be made by such insurer shall be such amount, being not less than one hundred and fifty thousand rupees, as may be specified in the said order.";

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

'(1A) (i) An insurer, who holds immediately before the commencement of the Insurance (Amendment) Act, 1968, a valid certificate of registration in respect of any class of

insurance business and who has deposited and kept deposited a sum which is less than the sum required to be deposited under sub-section (*1*) may make deposit of the sum which is equal to the difference between the sum already deposited and kept deposited and the sum required to be deposited under sub-section (*1*), in not more than five instalments, of which—

(*a*) the first shall be not less than one-fifth of the said sum and shall be paid before the expiry of one year from such commencement,

(*b*) the second shall be not less than one-fourth of the balance left after making the deposit under clause (*a*) and shall be paid before the expiry of two years from such commencement,

(*c*) the third shall be not less than one-third of the balance left after making the deposit under clauses (*a*) and (*b*), and shall be paid before the expiry of three years from such commencement,

(*d*) the fourth shall be not less than one-half of the residue and shall be paid before the expiry of four years from such commencement, and

(*e*) the balance shall be paid before the expiry of five years from such commencement.

(*ii*) An insurer referred to in clause (*a*) of sub-section (*1*), the total gross premium written direct by whom in India in any calendar year in respect of general insurance business exceeds for the first time rupees one crore, shall make deposit of the sum which is equal to the difference beween the sum already deposited and kept deposited by him, as at the end of such calendar year, and the sum of rupees twenty lakhs, in not more than five equal annual instalments, the first of which shall be made on or before the 31st day of December of the year immediately following the year in which the total gross premium written direct by him in India exceeded rupees one crore, and nothing in clause (*i*) of this sub-section shall apply to such insurer after the end of the calendar year during which the gross premium written direct by him in India exceeded rupees one crore.

(*1B*) Notwithstanding anything contained in sub-section (*1*), it shall be sufficient compliance with the provisions of sub-section (*1*) in the case of a group of insurers operating in India as a group (hereafter in this Act referred to as a "group") if the total amount of the deposit

made by all the insurers in the group is not less than the amount which the group, if considered to be a single insurer, would have been required to deposit under sub-section (*1*):

Provided that the deposit made by each insurer in the group is not less than that proportion of the total deposit required to be made under this sub-section as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy.

Explanation.—For the purposes of this section and section 64VA, a group shall be deemed to be operating as such in India if the following conditions are fulfilled, namely:—

(*a*) no insurer in the group has commenced carrying on insurance business in India after the commencement of the Insurance (Amendment) Act, 1968;

(*b*) all the insurers in the group are registered for the same class or classes of insurance business;

(*c*) there is an agreement between all the insurers in the group to function as a group in respect of their business in India, and such agreement provides that the proportionate share of each insurer in the total risk on every policy issued by the group shall be such as may be mentioned therein and that such proportion shall be the same for all policies in all the classes of insurance policies issued by the group;

(*d*) the agreement referred to in clause (c) has been filed with the Controller within thirty days from the date of its execution:

Provided that if the Controller is satisfied that any insurer was prevented by sufficient cause from filing such agreement within the specified time, he may, by order, allow the insurer to file such agreement within a period of thirty days from the date of his order;

(*e*) every policy issued by the insurers in the group mentions, on the face of the policy, the names of all the members of the group and the proportion of the risk for which each member is liable;

(*f*) the insurers in the group function with common offices, common officers, not being directors or members of any Board of management, and common staff within India;

(*g*) all the expenses in India of the insurance business (but excluding expenses solely relating to any Board of management, whether set up for the purpose of managing the insurance business or not,) are shared by the insurers in the group in the proportion in which the risks are shared by and between them.

(*1C*) When a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall, unless he has joined another group within a period of six months from the date of cessation of the previous group and has complied with all the provisions of this section, comply with the requirements of sub-section (*1*) as if he had not been an insurer in any group at any time and he shall pay, within a period of six months from the date of such cessation, in a lump sum, the amount of the instalments of deposit which he would have been required to make under sub-section (*1A*) before the date of such cessation had he not been an insurer in any group at any time, reduced by the amount of deposit, if any, made by him after the commencement of the Insurance (Amendment) Act, 1968.

(*1D*) The Central Government may, at its discretion, extend the time for making any deposit or instalment of deposit required to be made by any insurer under the provisions of sub-sections (*1*), (*1A*), (*1B*) and (*1C*) by a period of not more than six months at a time:

Provided that not more than two extensions shall be given in respect of any deposit or instalment of deposit required to be made by an insurer.

(*1E*) Where a group of insurers is operating in India as a group, such insurers may, notwithstanding anything contained in section 32A, have common officers and common staff within India.';

(*c*) in sub-section (*2*), the words "any class of" and the words "as the deposit for that class of insurance business" shall be omitted;

(*d*) for sub-sections (*3*), (*4*), (*5*) and (*6*), the following sub-sections shall be substituted, namely:—

"(*3*) Where the deposit is to be made by an insurer not carrying on insurance business in India immediately before

the commencement of the Insurance (Amendment) Act, 1968, a deposit of rupees ten lakhs shall be made before the application for registration is made, and the provisions of clause (*ii*) of sub-section (*1A*) shall apply to such insurer after his registration as they apply to an insurer specified in clause (*a*) of sub-section (*1*).

(4) An insurer shall not be registered for any class of insurance business in addition to the class or classes for which he is already registered until the full deposit required under sub-section (*1*) has been made.

(5) Where an insurer who intends to become a member of a group, does not carry on all the classes of insurance business carried on by the other insurers in such group, or, where out of the several insurers who desire to form themselves into a group, any insurer does not carry on all the classes of insurance business carried on by the other insurers who desire to form themselves into the group, such insurer may be registered for that class or those classes of insurance business which is or are carried on by the other insurers of the group or the proposed group, as the case may be, and where any application for registration is made by any such insurer, the Controller may, notwithstanding anything contained in sub-section (*2A*) of section 3 or sub-section (4), register such insurer for one or more additional classes of insurance, if the following conditions are fulfilled, namely:—

(*a*) the Controller is satisfied that registration for the proposed one or more additional classes of insurance business would qualify the insurer to become a member of a group;

(*b*) agreements have been executed by all the insurers in the group or proposed group, as the case may be, and such agreements, in the opinion of the Controller, satisfy the requirements of the *Explanation* to sub-section (*1B*); and

(c) the insurer has, after the commencement of the Insurance (Amendment) Act, 1968, made deposit of a sum not less than the total of all the instalments of deposit which he would have been required to make after such commencement till the date of his becoming a member of the group, had he been a member of the group from such commencement.

(6) The Controller shall cancel the registration made in pursuance of the provisions of sub-section (5), if the insurer referred to therein fails to become, within a period of three months from the date of such registration, a member of the group or proposed group, as the case may be, and, where such registration has been cancelled, the provisions of this Act shall apply to the insurer as if he had not been registered for the class or classes of insurance business in relation to which his registration has been cancelled.".

Substitution of new section for section 9.

7. For section 9 of the principal Act, the following section shall be substituted, namely:—

Refund of deposit.

"9. Where an insurer has ceased to carry on in India all classes of insurance business, and his liabilities in India in respect of all classes of insurance business have been satisfied or are otherwise provided for, the court may, on the application of the insurer, order the return to the insurer of the deposit made by him under this Act.".

Amendment of section 10.

8. In section 10 of the principal Act, in sub-section (*1*),—

(*i*) for the words, brackets, letters and figures "classes specified in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 7", the words "following classes, namely, life insurance, fire insurance, marine insurance or miscellaneous insurance" shall be substituted;

(*ii*) for the words, brackets and letter "the class specified in clause (*d*) of that sub-section", the words "miscellaneous insurance" shall be substituted;

(*iii*) for the words, brackets and letter "each such sub-class of the class specified in clause (*d*)", the words "each of such sub-classes of miscellaneous insurance business" shall be substituted;

(*iv*) in the proviso, for the words, brackets, letter and figures "the class of insurance business specified in clause (*d*) of sub-section (*1*) of section 7", the words "miscellaneous insurance business" shall be substituted.

Amendment of section 11.

9. In section 11 of the principal Act, in sub-section (*1*), in clause (*b*), for the words, brackets, letters and figures "the classes specified in clauses (*a*), (*b*) and (c) of sub-section (*1*) of section 7", the words "the following classes, namely, life insurance, fire insurance or marine insurance" shall be substituted.

Amendment of section 21.

10. In section 21 of the principal Act, in sub-section (*1*), in clause (*d*), after the words, figures and letter "or section 28A", the words, figures and letters "or section 28B or section 64V" shall be inserted.

Insertion of new section 27B.

11. After section 27A of the principal Act, the following section shall be inserted, namely:—

Further provisions regarding Investments.

'27B. (*1*) No insurer carrying on general insurance business shall, after the commencement of the Insurance (Amendment) Act, 1968, invest or keep invested any part of his assets otherwise than in any of the following approved investments, namely:—

(*a*) the investments specified in clauses (*a*) to (*e*), (*n*), (*q*) and (*r*) of sub-section (*1*) of section 27A;

(*b*) debentures secured by a first charge on any immovable property, plant or equipment of any company which has paid interest in full for the three years immediately preceding or for at least three out of the four or five years immediately preceding on such or similar debentures issued by it;

(*c*) debentures secured by a first charge on any immovable property, plant or equipment of any company where either the book value or the market value, whichever is less, of such property, plant or equipment is more than twice the value of such debentures;

(*d*) first debentures secured by a floating charge on all its assets or by a fixed charge on fixed assets and floating charge on all other assets of any company which has paid dividends on its equity shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding the date of the investment;

(*e*) preference shares of any company which has paid dividends on its equity shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding;

(*f*) preference shares of any company on which dividends have been paid for the three years immediately preceding or for at least three out of the four or five years immediately preceding and which have priority in payment over all the equity shares of the company in winding up;

(*g*) shares of any company which have been guaranteed by another company, such other company having paid dividends on its equity shares for the three years immediately preceding or for at least three out of the four or five years immediately preceding:

Provided that the total amount of shares of all the companies under guarantee by the guaranteeing company is not in excess of fifty per cent. of the paid-up amount of preference and equity shares of the guaranteeing company;

(*h*) shares of any company on which dividends of not less than four per cent. including bonus have been paid for the three years immediately preceding or for at least three out of the four or five years immediately preceding;

(*i*) first mortgages on immovable property situated in India or in any other country where the insurer is carrying on insurance business:

Provided that the property mortgaged is not leasehold property with an outstanding term of less than fifteen years and the value of the property exceeds by one-third, or if it consists of buildings, exceeds by one-half, the mortgage money;

(*j*) such other investments as the Central Government may, by notification in the Official Gazette, declare to be approved investments for the purposes of this section.

(*2*) Any prescribed assets shall, subject to such conditions, if any, as may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in sub-section (*1*).

(*3*) Notwithstanding anything contained in sub-section (*1*), an insurer may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his assets otherwise than in an approved investment specified in sub-section (*1*), if,—

(*i*) after such investment, the total amounts of all such investments of the insurer do not exceed twenty-five per cent. of his assets, and

(*ii*) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors, other than the directors appointed under section 34C, present at a meeting and eligible to vote, special notice of which has been given

to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Controller with full details of the investments and the extent of the director's interest in any such investment:

Provided that the making, or the continuance, of such investment is not objected to by any director appointed under section 34C.

(4) An insurer shall not invest or keep invested any part of his assets in the shares of any one banking company or investment company more than—

(*a*) ten per cent. of his assets, or

(*b*) two per cent. of the subscribed share capital and debentures of the banking company or investment company concerned,

whichever is less.

(5) An insurer shall not invest or keep invested any part of his assets in the shares or debentures of any one company other than a banking company or investment company more than—

(*a*) ten per cent. of his assets, or

(*b*) ten per cent. of the subscribed share capital and debentures of the company,

whichever is less.

Provided that nothing in this sub-section shall apply to any investment made by an insurer in the shares of any other insurer if such other insurer is a company within the meaning of section 3 of the Companies Act, 1956, and carries on insurance or re-insurance business in India. 1 of 1956.

(6) An insurer shall not invest or keep invested any part of his assets in the shares or debentures of any private company.

(7) Where an investment is in partly paid-up shares, the uncalled liability on such shares shall be added to the amount invested for the purpose of computing the percentages referred to in clause (*a*) of sub-section (4) and clause (*a*) of sub-section (5).

(8) Notwithstanding anything contained in sub-sections (4) and (5), where new shares are issued to the existing shareholders by a company, the existing shares of which are covered by clause (*e*) or clause (*g*) or clause (*h*) of sub-section (1) and

of which an insurer is already a shareholder, the insurer may subscribe to such new shares:

Provided that the proportion of new shares subscribed by him does not exceed the proportion which the paid-up amount on the shares held by him immediately before such subscription bears to the total paid-up capital of the company at the time of such subscription.

(9) If, on an application submitted to the Controller, he is satisfied that special grounds exist warranting such exemption, he may, for such period, to such extent and in relation to such particular investments and subject to such conditions as may be specified by him in this behalf, exempt an insurer from all or any of the provisions of sub-sections (4), (5) and (8).

(10) An insurer shall not keep more than ten per cent. of his assets in fixed deposit or current deposit, or partly in fixed deposit and partly in current deposit, with any one banking company or with any co-operative society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force and doing banking business:

2 of 1912.

Provided that in applying this sub-section to the amount in deposit with a banking company on any day, all the premiums credited during the preceding sixty days, to the account of the insurer with such banking company and the amounts deposited, during the preceding thirty days, by such insurer with that banking company for payment of claims or out of re-insurance recoveries, shall be excluded.

(11) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.

(12) If at any time the Controller considers any one or more of the investments constituting an insurer's assets to be unsuitable or undesirable, he may, after giving the insurer an opportunity of being heard, direct the insurer to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf by the Controller.

(13) Every insurer in existence at the commencement of the Insurance (Amendment) Act, 1968, whose investments or any

part thereof at such commencement do or does not fulfil the requirements of this section, shall, within ninety days from such commencement, submit to the Controller a report specifying all such investments, and, if the Controller is satisfied that it will not be in the interest of the insurer or any class of insurers generally to realise any such investments, he may, by order, direct that the provisions of this section, other than the provisions contained in sub-section (*12*), shall not apply in relation to any such investments or to any class of investments generally for such period or periods as may be specified in the order.

(*14*) Without prejudice to the powers conferred on the Controller by sub-section (*12*), nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the provisions of sub-section (*1*) after the commencement of the Insurance (Amendment) Act, 1968, which, after the making thereof, has ceased to be an approved investment within the meaning of this section.

(*15*) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central, Provincial or State Act.

(*16*) In this section, unless the context otherwise requires, "assets" means—

(*a*) in the case of an insurer carrying on life insurance business in India, all his assets required to be shown under the column "Other Classes of Business" in the balance-sheet in Form A, in Part II of the First Schedule, but excluding any items against the head "Other Accounts (to be specified)";

(*b*) in the case of an insurer specified in sub-clause (*a*) (*ii*) or sub-clause (*b*) of clause (*9*) of section 2, who is not carrying on life insurance business in India, all his assets required to be shown in the balance-sheet in Form A in Part II of the First Schedule but excluding any items against the head "Other Accounts (to be specified)"; and

(*c*) in the case of any other insurer, the assets required to be shown in the statement in Form AA, in Part II of the First Schedule, but excluding office furniture,

but does not include any assets specifically held against any fund or portion thereof in respect of which the Controller is satisfied

that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Controller is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.'.

12. After section 28A of the principal Act, the following section shall be inserted, namely:— Insertion of new section 28B.

"28B. (*1*) Every insurer carrying on general insurance business, shall, every year, within thirty-one days from the beginning of the year, submit to the Controller a return in the prescribed form showing as at the 31st day of December of the preceding year the investments made out of his assets referred to in section 27B, and every such return shall be certified by a principal officer of the insurer. Returns of investments relating to the assets and changes therein.

(*2*) Every insurer referred to in sub-section (*1*) shall also submit to the Controller a return in the prescribed form showing all the changes that occurred in the investments aforesaid during each of the quarters ending on the last day of March, June, September and December within thirty-one days from the close of the quarter to which it relates, and every such return shall be certified by a principal officer of the insurer.

(*3*) Every insurer shall submit, along with the returns referred to in sub-sections (*1*) and (*2*), a statement, where any part of the assets are in the custody of a banking company, from that company, and in any other case, from the Chairman, two directors and a principal officer, if the insurer is a company, or from a principal officer of the insurer, if the insurer is not a company, specifying the assets, which are subject to a charge and certifying that the other assets are held free of any encumbrance, charge, hypothecation or lien, and every such statement after the first shall also specify the charges created in respect of any of those assets since the date of the statement immediately preceding, and, if any such charges have been liquidated, the date on which they were so liquidated.".

13. In section 30 of the principal Act, after the word, figures and letter "section 27A", the word, figures and letter ", section 27B" shall be inserted. Amendment of section 30.

Amendment of section 31A.

14. In section 31A of the principal Act, in clause (*vii*) of the proviso to sub-section (*1*), the words ", such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case" shall be omitted.

Amendment of section 33.

15. In section 33 of the principal Act,—

(*i*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Controller may, at any time, and shall, on being directed so to do by the Central Government, cause an inspection to be made by one or more of his officers of any insurer and his books and accounts; and the Controller shall supply to the insurer a copy of his report on such inspection."; 1 of 1956.

(*ii*) in sub-section (*2*), after the words, brackets and figure "under sub-section (*1*)", the words, brackets, figure and letter ", or inspection under sub-section (*1A*)," shall be inserted;

(*iii*) in sub-section (*3*), after the words, brackets and figure "under sub-section (*1*)", the words, brackets, figure and letter ", or inspection under sub-section (*1A*)" shall be inserted;

(*iv*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) The Controller shall, if he has been directed by the Central Government to cause an inspection to be made, and may, in any other case, report to the Central Government on any inspection made under this section.";

(*v*) in sub-section (*4*), after the words, brackets and figure "under sub-section (*1*)", the words, brackets, figure and letter "or under sub-section (*3A*)" shall be inserted;

(*vi*) after sub-section (*4*), the following sub-sections and *Explanation* shall be inserted, namely:—

'(*4A*) The Central Government may, after giving reasonable notice to the insurer, publish the report submitted by the Controller under sub-section (*3A*) or such portion thereof as may appear to it to be necessary.

(*4B*) The Central Government may prescribe the minimum information to be maintained by insurers in their books, the manner in which such information should be

maintained, the checks and other verifications to be adopted by insurers in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Controller to discharge satisfactorily his functions under this section.

Explanation.—For the purposes of this section, the expression "insurer" shall include—

(*i*) in the case of an insurer incorporated outside India, all his branches in India; and

(*ii*) in the case of an insurer incorporated in India—

(*a*) all his subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and

(*b*) all his branches whether situated in India or outside India.'.

Insertion of new sections 33A, 34, 34A, 34B, 34C, 34D, 34E, 34F, 34G and 34H.

16. After section 33 of the principal Act, the following headings and sections shall be inserted:—

"APPOINTMENT OF STAFF

Power to appoint staff.

33A. The Central Government or the Controller may appoint such staff, and at such places as it or he may consider necessary, for the scrutiny of the returns, statements and information furnished by insurers under this Act and generally to ensure the efficient performance of the functions of the Controller under this Act.

POWER TO ISSUE DIRECTIONS

Power of the controller to issue directions.

34. (*1*) Where the Controller is satisfied that—

(*a*) in the public interest; or

(*b*) to prevent the affairs of any insurer being conducted in a manner detrimental to the interests of the policyholders or in a manner prejudicial to the interests of the insurer; or

(c) generally to secure the proper management of any insurer,

it is necessary to issue directions to insurers generally or to any insurer in particular, he may, from time to time, issue such directions as he deems fit, and the insurers or the insurer, as the case may be, shall be bound to comply with such directions:

Provided that no such direction shall be issued to any in-

surer in particular unless such insurer has been given a reasonable opportunity of being heard.

(2) The Controller may, on representation made to him or on his own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction, may impose such conditions as he thinks fit, subject to which the modification or cancellation shall have effect.

CONTROL OVER MANAGEMENT

Amendment of provisions relating to appointments of managing directors, etc., to be subject to previous approval of the Controller

34A. (1) In the case of an insurer,—

(a) no amendment made after the commencement of the Insurance (Amendment) Act, 1968, of any provision relating to the appointment, re-appointment, termination of appointment or remuneration of a managing or whole-time director, or of a manager or a chief executive officer, by whatever name called, whether that provision be contained in the insurer's memorandum or articles of association, or in an agreement entered into by him, or in any resolution passed by the insurer in general meeting or by his Board of directors shall have effect unless approved by the Controller;

(b) no appointment, re-appointment or termination of appointment, made after the commencement of the Insurance (Amendment) Act, 1968, of a managing or whole-time director, or a manager or a chief executive officer, by whatever name called, shall have effect unless such appointment, re-appointment or termination of appointment is made with the previous approval of the Controller.

Explanation.—For the purposes of this sub-section, any provision conferring any benefit or providing any amenity or perquisite, in whatever form, whether during or after the termination of the term of office of the manager or the chief executive officer, by whatever name called, or a managing or whole-time director, shall be deemed to be a provision relating to his remuneration.

(2) Nothing contained in sections 268 and 269, the proviso to sub-section (3) of section 309, sections 310 and 311, the proviso to section 387, and section 388 (in so far as section 388 makes the provisions of sections 310 and 311 apply in relation to the manager of a company) of the Companies Act, 1956, shall apply to any matter in respect of which the approval of the Controller has to be obtained under sub-section (1). 1 of 1956

(3) No act done by a person as a managing or whole-time director or a director not liable to retire by rotation or a manager or a chief executive officer, by whatever name called, shall be deemed to be invalid on the ground that it is subsequently discovered that his appointment or re-appointment had not taken effect by reason of any of the provisions of this Act; but nothing in this sub-section shall be construed as rendering valid any act done by such person after his appointment or re-appointment has been shown to the insurer not to have had effect.

Power of Controller to remove managerial persons from office.

34B. (1) Where the Controller is satisfied that in the public interest or for preventing the affairs of an insurer being conducted in a manner detrimental to the interests of the policy-holders or for securing the proper management of any insurer it is necessary so to do, he may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any director or the chief executive officer, by whatever name called, of the insurer.

(2) No order under sub-section (1) shall be made unless the director or chief executive officer concerned has been given a reasonable opportunity of making a representation to the Controller against the proposed order:

Provided that if, in the opinion of the Controller, any delay would be detrimental to the interests of the insurer or his policy-holders, he may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer, shall not, with effect from the date of such order,—

(a) act as such director or chief executive officer of the insurer;

(b) in any way, whether directly or indirectly, be concerned with, or take part in, the management of the insurer.

(3) Where any order is made in respect of a director or chief executive officer of an insurer under sub-section (1), he shall cease to be a director or, as the case may be, chief executive officer of the insurer and shall not, in any way, whether directly or indirectly, be concerned with, or take part in, the management of any insurer for such period not exceeding five years as may be specified in the order.

(4) If any person in respect of whom an order is made by the Controller under sub-section (1) or under the proviso to sub-section (2) contravenes the provisions of this section, he shall be punishable with fine which may extend to two hundred and fifty rupees for each day during which such contravention continues.

(5) Where an order under sub-section (1) has been made, the Controller may, by order in writing, appoint a suitable person in place of the director or chief executive officer who has been removed from his office under that sub-section, with effect from such date as may be specified in the order.

(6) Any person appointed as director or chief executive officer under this section shall,—

(a) hold office during the pleasure of the Controller and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Controller may specify;

(b) not incur any obligation or liability by reason only of his being a director or chief executive officer or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto.

(7) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

Power of Controller to appoint additional directors.

34C. (1) If the Controller is of opinion that in the public interest or in the interests of an insurer, or his policy-holders it is necessary so to do, he may, from time to time, by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:

Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maximum strength fixed for the Board by the articles of association of the insurer, whichever is less.

(2) Any person appointed as additional director in pursuance of this section,—

(a) shall hold office during the pleasure of the Controller, and subject thereto for a period not exceeding three

years or such further periods not exceeding three years at a time as the Controller may specify;

(*b*) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(*c*) shall not be required to hold qualification shares of the insurer.

(*3*) For the purpose of reckoning any proportion of the total number of directors of the insurer, any additional director appointed under this section shall not be taken into account.

Sections 34B and 34C to override other laws.

34D. Any appointment or removal of a director or chief executive officer in pursuance of section 34B or section 34C shall have effect notwithstanding anything to the contrary contained in the Companies Act, 1956, or any other law for the time being in force or in any contract or any other instrument.

1 of 1956.

Further powers.

34E. The Controller may,—

(*a*) caution or prohibit insurers generally or any insurer in particular against entering into any particular transaction or class of transactions, and generally give advice to any insurer;

(*b*) at any time, if he is satisfied that in the public interest or in the interests of the insurer or for preventing the affairs of the insurer being conducted in a manner detrimental to the interests of the insurer or his policyholders, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein,—

(*i*) require the insurer to call a meeting of his directors for the purpose of considering any matter relating to or arising out of the affairs of the insurer;

(*ii*) depute one or more of his officers to watch the proceedings at any meeting of the Board of directors of the insurer or of any committee or of any other body constituted by it; require the insurer to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Controller;

(*iii*) require the Board of directors of the insurer or any committee or any other body constituted by it to give in writing to any officer specified by the Controller in this

behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it;

(*iv*) appoint one or more of his officers to observe the manner in which the affairs of the insurer or of his offices or branches are being conducted and make a report thereon;

(*v*) require the insurer to make, within such time as may be specified in the order, such changes in the management as the Controller may consider necessary.

Power of Controller to issue directions regarding re-insurance treaties, etc

34F. (*1*) Without prejudice to the generality of the powers conferred by sub-section (*1*) of section 34, the Controller may, if he is of opinion that the terms or conditions of any re-insurance treaty or other re-insurance contract entered into by an insurer are not favourable to the insurer or are detrimental to the public interest, he may, by order, require the insurer to make, at the time when the renewal of such treaty or contract becomes next due, such modifications in the terms and conditions of such treaty or contract as he may specify in the order or not to renew such treaty or contract, and, if the insurer fails to comply with such order, he shall be deemed to have failed to comply with the provisions of this Act.

(2) The Controller may, if he has reason to believe that an insurer is entering into or is likely to enter into re-insurance treaties or other re-insurance contracts which are not favourable to the insurer or are detrimental to the public interest, he may, by order, direct that the insurer shall not enter into such re-insurance treaty or other re-insurance contract unless a copy of such treaty or contract has been furnished to him in advance and the terms and conditions thereof have been approved by him and if the insurer fails to comply with such order he shall be deemed to have failed to comply with the requirements of this Act.

Power of Controller to order closure of foreign branches

34G. Without prejudice to the generality of the powers conferred by sub-section (*1*) of section 34, the Controller may, if he has reason to believe that the working of any branch outside India of an insurer being an insurer specified in sub-clause (*b*) of clause (*9*) of section 2, is generally resulting in a loss or that

the affairs of that branch are being conducted in a manner prejudicial to the interests of the policy-holders or the public interest, he may, after giving an opportunity to the insurer of being heared, direct that the insurer shall cease, within such period, not being less than one year, as may be specified in the order, to carry on insurance business in the country in which such branch is situated and if the insurer fails to comply with such order he shall be deemed to have failed to comply with the provisions of this Act.

Search and seizure.

34H. (*1*) Where the Controller, in consequence of information in his possession, has reason to believe that—

(*a*) any person who has been required under sub-section (*2*) of scetion 33 to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents, or

(*b*) any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation under sub-section (*1*) of section 33 or an inspection under sub-section (*1A*) of that section, or

(*c*) a contravention of any provision of this Act has been committed or is likely to be committed by an insurer, or

(*d*) any claim which is due to be settled by an insurer, has been or is likely to be settled at a figure higher than a reasonable amount, or

(*e*) any claim which is due to be settled by an insurer, has been or is likely to be rejected or settled at a figure lower than a reasonable amount, or

(*f*) any illegal rebate or commission has been paid or is likely to be paid by an insurer, or

(*g*) any books, accounts, receipts, vouchers, survey reports or other documents, belonging to an insurer are likely to be tampered with, falsified or manufactured,

he may authorise any subordinate officer of his, not lower

in rank than an Assistant Controller of Insurance (hereafter referred to as the authorised officer) to—

(*i*) enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, rebate or commission or any receipts, vouchers, reports or other documents are kept;

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iii*) seize all or any such books, accounts or other documents, found as a result of such search;

(*iv*) place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.

(2) The authorised officer may requisition the services of any police-officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (*1*) and it shall be the duty of every such officer to comply with such requisition.

(3) The authorised officer may, where it is not practicable to seize any such book, account or other document, specified in sub-section (*1*), serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.

(5) The books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (*1*) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the

reasons for retaining the same are recorded by him in writing and the approval of the Controller for such retention is obtained:

Provided that the Controller shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Act for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant are completed.

(*6*) The person from whose custody any books, accounts, papers, receipts, vouchers, reports, or other documents are seized under sub-section (*1*) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

(*7*) If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (*1*) objects for any reason to the approval given by the Controller under sub-section (*5*), he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, reports, or other documents.

(*8*) On receipt of the application under sub-section (*7*), the Central Government may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(*9*) The provisions of the Code of Criminal Procedure, 1898, relating to searches and seizures shall apply, so far as may be, to every search and seizure made under sub-section (*1*).

(*10*) The Central Government may make rules in relation to any search or seizure under this section; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer,—

(*i*) for obtaining ingress into such building or place to be searched where free ingress thereto is not available;

(*ii*) for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.".

Insertion of new section 37A.

17. After section 37 of the principal Act, the following section shall be inserted, namely:—

Power of Controller to prepare scheme of amalgamation.

"37A. (1) If the Controller is satisfied that—

(i) in the public interest; or

(ii) in the interests of the policy-holders; or

(iii) in order to secure the proper management of an insurer; or

(iv) in the interests of the insurance business of the country as a whole,

it is necessary so to do, he may prepare a scheme for the amalgamation of that insurer with any other insurer (hereafter referred to in this section as the transferee insurer):

Provided that no such scheme shall be prepared unless the other insurer has given his written consent to the proposal for such amalgamation.

(2) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, and the liabilities, duties and obligations of the transferee insurer;

(b) the transfer to the transferee insurer of the business, properties, assets and liabilities of the insurer on such terms and conditions as may be specified in the scheme;

(c) any change in the Board of directors, or the appointment of a new Board of directors of the transferee insurer and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and, in the case of appointment of a new Board of directors or of any director, the period for which such appointment shall be made;

(d) the alteration of the memorandum and articles of association of the transferee insurer for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the amalgamation;

(e) subject to the provisions of the scheme, the continuation by or against the transferee insurer, of any actions or proceedings pending against the insurer;

(f) the reduction of the interest or rights which the shareholders, policy-holders and other creditors have in or

against the insurer before the amalgamation to such extent as the Controller considers necessary in the public interest or in the interests of the shareholders, policy-holders and other creditors or for the maintenance of the business of the insurer;

(*g*) the payment in cash or otherwise to policy-holders and other creditors in full satisfaction of their claim,—

(*i*) in respect of their interest or rights in or against the insurer before the amalgamation; or

(*ii*) where their interest or rights aforesaid in or against the insurer has or have been reduced under clause (*f*), in respect of such interest or rights as so reduced;

(*h*) the allotment to the shareholders of the insurer for shares held by them therein before the amalgamation [whether their interest in such shares has been reduced under clause (*f*) or not] of shares in the transferee insurer and where any shareholders claim payment in cash and not allotment of shares, or where it is not possible to allot shares to any shareholders the payment in cash to those shareholders in full satisfaction of their claim—

(*i*) in respect of their interest in shares in the insurer before the amalgamation; or

(*ii*) where such interest has been reduced under clause (*f*) in respect of their interest in shares as so reduced;

(*i*) the continuance of the services of all the employees of the insurer (excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme) in the transferee insurer at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date of the amalgamation:

14 of 1947.

Provided that the scheme shall contain a provision that the transferee insurer shall pay or grant not later than the expiry of the period of three years, from the date of the amalgamation, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding rank on status of the transferee insurer subject to the qualifications

and experience of the said employees being the same as or equivalent to those of such other employees of the transferee insurer:

Provided further that if in any case any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or are equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee insurer, the doubt or difference shall be referred to the Controller whose decision thereon shall be final;

(*j*) notwithstanding anything contained in clause (*i*), where any of the employees of the insurer not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme under clause (*i*) or where any employees of the insurer have by notice in writing given to the insurer or, as the case may be, the transferee insurer at any time before the expiry of one month next following the date on which the scheme is sanctioned by the Central Government, intimated their intention of not becoming employees of the transferee insurer, the payment to such employees of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund or other retirement benefits ordinarily admissible to them under the rules or authorisations of the insurer immediately before the date of the amalgamation; 14 of 1947.

(*k*) any other terms and conditions for the amalgamation of the insurer;

(*l*) such incidental, consequential and supplemental matters as are necessary to secure that the amalgamation shall be fully and effectively carried out.

(*3*) (*a*) A copy of the scheme prepared by the Controller shall be sent in draft to the insurer and also to the transferee insurer and any other insurer concerned in the amalgamation, for suggestions and objections, if any, within such period as the Controller may specify for this purpose.

(*b*) The Controller may make such modifications, if any, in the draft scheme as he may consider necessary in the light of the suggestions and objections received from the insurer and also from the transferee insurer, and any other insurer concerned in the amalgamation and from any shareholder, policy-holder or

other creditor of each of those insurers and the transferee insurer.

(4) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary; and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(5) The sanction accorded by the Central Government under sub-section (4) shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise) be admitted as evidence to the same extent as the original scheme.

(6) The Controller may, in like manner, add to, amend or vary any scheme made under this section.

(7) On and from the date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the insurer or, as the case may be, on the transferee insurer and any other insurer concerned in the amalgamation and also on all the shareholders, policy-holders and other creditors and employees of each of those insurers and of the transferee insurer, and on any other person having any right or liability in relation to any of those insurers or the transferee insurer.

(8) On and from such date as may be specified by the Central Government in this behalf, the properties and assets of the insurer shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the insurer shall, by virtue of and to the extent provided in the scheme, stand transferred to and become the liabilities of, the transferee insurer.

(9) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

(*10*) Copies of every scheme made under this section and of every order made under sub-section (*9*) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made.

(*11*) Nothing in this section shall be deemed to prevent the amalgamation with an insurer by a single scheme of several insurers.

(*12*) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force.

(*13*) The provisions of section 37 shall not apply to an amalgamation given effect to under the provisions of this section.".

Amendment of section 40A.

18. In section 40A of the principal Act, in sub-section (*3*),—

(*i*) for the words, brackets and figures "Insurance (Amendment) Act, 1950", the words, brackets and figures "Insurance (Amendment) Act, 1968" shall be substituted; 47 of 1950.

(*ii*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) where the policy relates to fire or marine insurance, five per cent. of the premium payable on the policy, and

(*b*) where the policy relates to miscellaneous insurance, ten per cent. of the premium payable on the policy."

Amendment of section 40C.

19. In section 40C of the principal Act, in clause (*b*) of the *Explanation*, after the words "in India during the year", the following shall be inserted, namely:—

", but in computing the expenses of management in India the following, and only the following, expenses may be excluded, namely:—

(*i*) in the case of an insurer having his principal place of business in India, a share of head office expenses in respect of general insurance business transacted by him outside

India not exceeding such percentage of his gross direct premium written outside India as may be prescribed,

(*ii*) in the case of an insurer having his principal place of business outside India, a share of the expenses of his office in India in respect of general insurance business transacted by him outside India through his office in India, not exceeding such percentage of his gross direct premium written outside India through his office in India, as may be prescribed;

(*iii*) any expenses debited to profit and loss account relating exclusively to the management of capital, and dealings with shareholders and a proper share of managerial expenses calculated in such manner as may be prescribed, and

(*iv*) any expenses debited to claims in the revenue account in Form F of Part II of the Third Schedule".

Amendment of section 42.

20. In section 42 of the principal Act,—

(*a*) in sub-section (*1*), for the words "ten rupees", the words "twenty-five rupees" shall be substituted;

(*b*) in sub-section (*3*), for the words "ten rupees", the words "twenty-five rupees" and for the words "three rupees", the words "ten rupees" shall be substituted;

(*c*) in the proviso to sub-section (*3A*), for the words "thirty rupees", the words "seventy-five rupees" shall be substituted.

Omission of section 48C.

21. Section 48C of the principal Act shall be omitted.

Insertion of new sections 52H, 52I, 52J, 52K, 52L, 52M, and 52N.

22. After section 52G of the principal Act, the following heading and sections shall be inserted, namely:—

'ACQUISITION OF THE UNDERTAKINGS OF INSURERS IN CERTAIN CASES

Power of central Government to acquire undertakings

52H. (*1*) If, upon receipt of a report from the Controller, the Central Government is satisfied that an insurer,—

(*a*) has persistently failed to comply with—

(*i*) any direction given to him under section 34, section 34F or section 34G, or

(*ii*) any order made under section 34E; or

of insurers in certain cases.

(*b*) is being managed in a manner determental to the public interest or to the interests of his policy-holders, or shareholdrers,

and that—

(*i*) in the public interest, or

(*ii*) in the interests of the policy-holders or shareholders of such insurer,

it is necessary to acquire the undertaking of such insurer, the Central Government may, by notified order, acquire the undertaking of such insurer (hereafter in this section arnd in sections 52I, 52J and 52N and in the Eighth Schedule referred to as the acquired insurer) with effect from such date as may be specified in the order (hereafter in this section and in sections 52I and 52J and in the Eighth Schedule referred to as the appointed day):

Provided that no undertaking of an insurer shall be so acquired unless such insurer has been given a reasonable opportunity of showing cause against the proposed action.

Explanation.—For the purposes of this section and of sections 52I to 52N—

(*a*) "notified order" means an order published in the Official Gazette,

(*b*) "undertaking", in relation to an insurer incorporated outside India, means the undertaking of the insurer in India.

(2) Subject to the other provisions contained in this section and in sections 52I to 52M, on the appointed day, all the assets and liabilities of the undertaking of the acquired insurer shall stand transferred to, and vest in, the Central Government.

(3) The assets and liabilities of the undertaking of the acquired insurer shall be deemed to include all rights, powers, authorities and privileges and all property, whether movable or immovable, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in, or arising out of, such property, as may be in the possession of, or held by, the acquired insurer immediately before the appointed day and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations, of whatever kind, then existing of the acquired insurer.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, if it is satisfied that all the assets and liabilities of the undertaking of the acquired insurer should, instead of vesting in the Central Government, or continuing to so vest, vest in a corporation or company, whether established under the scheme made under section 52I or not (hereafter in this section and in sections 52I to 52N and in the Eighth Schedule referred to as the acquiring insurer), by order, direct that the assets and liabilities of the said undertaking, shall vest in the acquiring insurer, either on the publication of the notified order or on such other date as may be specified in this behalf in the direction.

(5) Where the undertaking of the acquired insurer vests in an acquiring insurer under sub-section (4), the acquiring insurer shall, on and from the date of such vesting, be deemed to have become the transferee of the acquired insurer and all the rights and liabilities in relation to the acquired insurer shall, on and from the date of such vesting, be deemed to have been the rights and liabilities of such acquiring insurer.

(6) Unless otherwise expressly provided by or under this section or sections 52I to 52M, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the acquired insurer is a party or which are in favour of the acquired insurer shall be of as full force and effect against or in favour, of the Central Government or, as the case may be, the acquiring insurer, and may be enforced or acted upon as fully and effectually as if in the place of the acquired insurer the Central Government or the acquiring insurer had been a party thereto or as if they had been issued in favour of the Central Government or the acquiring insurer, as the case may be.

(7) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, is pending by or against the acquired insurer, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the acquired insurer or of anything contained in this section or in sections 52I to 52M, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the acquiring insurer, as the case may be.

Power of Central Government to make scheme.

52I. (1) The Central Government may make a scheme for carrying out the purposes of sections 52H and 52J to 52M (both inclusive) in relation to the acquired insurer.

(2) In particular, and without prejudice to the generality of the foregoing power, the said scheme may provide for all or any of the following matters, namely:—

(a) transfer of the undertaking, including the property, assets and liabilities of the acquired insurer to an acquiring insurer, and the capital, constitution, name and office of the acquiring insurer;

(b) the constitution of the first Board of management (by whatever name called) of the acquiring insurer and all such matters in connection therewith or incidental thereto as the Central Government may consider to be necessary or expedient;

(c) the continuance of the services of all the employees of the acquired insurer (excepting such of them as, not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme) in the Central Government or in the acquiring insurer, as the case may be, on the same terms and conditions, so far as may be, as are specified in clauses (i) and (j) of sub-section (2) of section 37A so far as they may apply; 14 of 1947.

(d) the continuance of the rights of any person who, on the appointed day, is entitled to, or is in receipt of, a pension or other superannuation or compassionate allowance or benefit from the acquired insurer or any provident, pension or other fund or any authority administering such fund to be paid by, and to receive from the Central Government or the acquiring insurer, as the case may be, or any provident, pension or other fund or any authority administering such fund, the same pension, allowance or benefit so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final;

(e) the manner of payment to the acquired insurer in full satisfaction of his claim in relation to the compensation payable in accordance with the provisions of section 52J;

(*f*) the provision, if any, for completing the effectual transfer to the Central Government or the acquiring insurer of any asset or liability which forms part of the undertaking of the acquired insurer in any country outside India;

(*g*) such incidental, consequential and supplemental matters as may be necessary to secure that the transfer of the undertaking, property, assets and liabilities of the acquired insurer to the Central Government or the acquiring insurer, as the case may be, is effectual and complete.

(*3*) The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme made under this section.

(*4*) Every scheme made under this section shall be published in the Official Gazette.

(*5*) Copies of every scheme made under this section shall be laid before each House of Parliament as soon as may be after it is made.

(*6*) The provisions of sections 52H and 52J to 52M and of any scheme made under this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act or in any other law or any agreement, award or other instrument for the time being in force.

Compensation to be given to the acquired insurer.

52J. (*1*) The acquired insurer shall be given by the Central Government or the acquiring insurer, as the case may be, such compensation in respect of the transfer of the undertaking of the acquired insurer as is determined in accordance with the principles contained in the Eighth Schedule.

(*2*) The amount of compensation to be given in accordance with the principles contained in the Eighth Schedule shall be determined, in the first instance, by the Central Government or the acquiring insurer, as the case may be, in consultation with the Controller, and shall be offered by it to the acquired insurer, in full satisfaction thereof.

(*3*) If the amount of compensation offered in terms of subsection (*2*) is not acceptable to the acquired insurer, he may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government in writing to have the matter referred to the Tribunal constituted under section 52K.

(4) If before the date notified under sub-section (3) the Central Government does not receive request as provided in that sub-section, the amount of compensation offered under sub-section (2), or where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all the parties concerned.

(5) Where the Central Government does not receive request as provided in sub-section (3), the compensation payable in pursuance of the provisions of this section shall become due for payment on the expiry of one year from the appointed day, and where a reference has been made to the Tribunal under sub-section (3), the amount determined by the Tribunal as compensation shall become due for payment on the expiry of one year from the appointed day or on the date of decision of the Tribunal, whichever is earlier.

(6) If between the appointed day and the date on which the compensation becomes due in pursuance of sub-section (5), any facts come to light which call for revision of the amount of the compensation, the necessary modification of the amount of the compensation shall be made and the amount of the compensation so determined shall be the compensation payable in pursuance of sub-section (1).

(7) There shall also be paid simple interest at the rate of three per cent. per annum on the amount of the compensation for the period from the appointed day to the date on which payment of the compensation becomes due.

Constitution of the Tribunal.

52K. (1) The Central Government may, for the purposes of sections 52H to 52J, constitute a Tribunal which shall consist of a Chairman and two other members.

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or of the Supreme Court and of the two other members, one shall be a person who, in the opinion of the Central Government, has had experience of matters connected with general insurance and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949. 38 of 1949.

(3) If, for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government may fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2), and any proceeding may be continued before the Tribunal so constituted from the stage at which the vacancy occurred.

(4) The Tribunal may, for the purpose of determining any compensation payable under section 52J, choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation.

5 of 1908.

52L. (1) The Tribunal shall have the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— Tribunal to have powers of Civil Court.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

(2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force, the Tribunal shall not compel the Central Government or the Controller—

(a) to produce any books of account, or other documents which the Central Government or the Controller claims to be of a confidential nature;

(b) to make any such books or documents a part of the record of the proceedings before the Tribunal;

(c) to give inspection of any such books or documents to any party before it and to any other person.

(3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

45 of 1860.
2 of 1898.

52M. (1) The Tribunal shall have power to regulate its own procedure. Procedure of the Tribunal.

(2) The Tribunal may hold the whole or any part of its inquiry *in camera*.

(3) Any clerical or arithmetical error in any order of the Tribunal or any error arising therein from any accidental slip or omission may, at any time, be corrected by the Tribunal either of its own motion or on the application of any of the parties.

52N. Where any acquired insurer, being a company, has in accordance with the provisions of this Act, collected and distributed any monies paid to him by the Central Government or the acquiring insurer, as the case may be, by way of compensation Special provisions for the dissolution of

acquired insurers.

or otherwise, and has also complied with any directions given to him by the Central Government or the acquiring insurer, as the case may be, for the purpose of securing that the ownership of any property or any right is effectively transferred to the Central Government or the acquiring insurer, as the case may be, the Central Government may, on application being made to it in this behalf by such insurer, grant a certificate to the insurer that there is no reason for the continued existence of the insurer, and upon the publication of such certificate, the insurer shall be dissolved.'.

Amendment of section 53.

23. In section 53 of the principal Act, in sub-section (2),—

(*a*) in sub-clause (*iii*) of clause (*b*),—

(*i*) for the words "the returns", the words "any returns or statements" shall be substituted;

(*ii*) for the words "company is insolvent", the words "company is, or is deemed to be, insolvent" shall be substituted;

(*b*) in sub-clause (*iv*) of clause (*b*), after the words "interests of the policy-holders", the words "or to public interest generally" shall be inserted.

Amendment of section 58.

24. In section 58 of the principal Act, sub-section (5) shall be omitted.

Amendment of section 64E.

25. In section 64E of the principal Act, the words ", the Tariff Committee and the other Committee thereof" shall be omitted.

Amendment of section 64L.

26. In section 64L of the principal Act, to sub-section (2), the following proviso shall be, and shall be deemed always to have been, added, namely:—

"Provided that if the General Insurance Council thinks fit, it may, by a resolution passed by it, waive the collection of the prescribed fees for any year and where any such resolution has been approved by the Central Government, the Executive Committee of the General Insurance Council shall not collect any fees in relation to that year.".

Omission of sections 64O to 64Q.

27. Sections 64O to 64Q of the principal Act shall be omitted.

Amendment of section 64R.

28. In section 64R of the principal Act, in sub-section (2), the words "or the Tariff Committee appointed under section 64O" shall be omitted.

29. After Part IIA of the principal Act, the following Parts shall be inserted, namely:—

'PART IIB

TARIFF ADVISORY COMMITTEE AND CONTROL OF TARIFF RATES

Establishment of Tariff Advisory Committee.

64U. (*1*) With effect from the commencement of the Insurance (Amendment) Act, 1968, there shall be established a Committee, to be called the Tariff Advisory Committee (hereafter in this Part referred to as the Advisory Committee) to control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business.

(*2*) The Advisory Committee shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and may, by the said name, sue and be sued.

Composition of the Advisory Committee.

64UA. (*1*) The Advisory Committee shall consist of the following members, namely:—

(*a*) the Controller of Insurance, *ex officio*, who shall be the Chairman;

(*b*) a senior officer of the office of the Controller nominated by the Controller, who shall be the Vice-Chairman;

(*c*) not more than ten representatives of Indian insurers, elected (in their individual capacities) by such insurers in such manner, from such areas and from among such insurers or groups of insurers as may be prescribed;

(*d*) not more than four representatives of insurers incorporated or domiciled elsewhere than in India but registered in India, elected (in their individual capacities) by such insurers in such manner, and from among such insurers or groups of insurers as may be prescribed.

(*2*) The Secretary to the Advisory Committee shall be an officer of the office of the Controller, nominated by the Controller.

Power to make rules in respect of matters in this part.

64UB. (*1*) The Central Government may make rules to carry out the purposes of this Part.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the functions to be discharged by the Advisory Committee;

(b) the term of office of the members of the Advisory Committee, the procedure for their election and the manner of filling casual vacancies in the Advisory Committee;

(c) the travelling and other allowances payable to the members of the Advisory Committee;

(d) the procedure for holding the meetings of the Advisory Committee and for transaction of business thereat.

(3) The Advisory Committee may, with the previous approval of the Central Government, make regulations for all or any of the following matters, namely:—

(a) the constitution, powers and duties of Regional Committees and of sub-committees constituted by the Advisory Committee or any Regional Committee;

(b) the method of election of candidates for Regional Committees and sub-committees, their eligibility, term of office and method of filling casual vacancies;

(c) the procedure for convening meetings and transaction of business by Regional Committees and sub-committees;

(d) the appointment of officers and other employees of the Advisory Committee and of Regional Committees or sub-committees constituted by or under the Advisory Committee or any Regional Committee and the terms and conditions of their service including travelling and other allowances;

(e) such other matters pertaining to procedure as are not inconsistent with the provisions of this Act or of rules made thereunder,

and may, from time to time, with the previous approval of the Central Government, add to, amend or vary any such regulations.

(4) The regulations made by the Tariff Committee of the General Insurance Council under section 64O as they were in force immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, after such commencement, continue to be in force until rules are made by the Central Government under sub-section (1) and immediately after such rules have come into effect, the regulations aforesaid shall cease to be valid.

(5) The Controller of Insurance shall be in direct charge of the establishment of the Advisory Committee and the Secretary of the Advisory Committee shall work under his direction and control.

Power of the Advisory Committee to regulate rates, advantages etc.

64UC. (1) The Advisory Committee may, from time to time and to the extent it deems expedient, control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of any risk or of any class or category of risks, the rates, advantages, terms and conditions of which, in its opinion, it is proper to control and regulate, and any such rates, advantages, terms and conditions shall be binding on all insurers:

Provided that the Controller may, with the previous approval of the Central Government, permit any insurer to offer, during such period (being not more than two years but which may be extended by periods of not more than two years at a time) and subject to such conditions as may be specified by him, rates, advantages, terms or conditions different from those fixed by the Advisory Committee in respect of any particular category of risks, if he is satisfied that such insurer generally issues policies only to a restricted class of the public or under a restricted category of risks.

(2) In fixing, amending or modifying any rates, advantages, terms or conditions, relating to any risk, the Advisory Committee shall try to ensure, as far as possible, that there is no unfair discrimination between risks of essentially the same hazard, and also that consideration is given to past and prospective loss experience:

Provided that the Advisory Committee may, at its discretion, make suitable allowances for the degree of credibility to be assigned to the past experience, including allowances for random fluctuations and may also, at its discretion, make suitable allowances for future fluctuations and unforeseen future contingencies, including hazards of conflagration or catastrophe or both.

(3) Every decision of the Advisory Committee shall be valid only after and to the extent it is ratified by the Controller, and every such decision shall take effect from the date on which it is so ratified by the Controller, or, if the Controller so orders in any case, from such earlier date as he may specify in the order.

(4) The decisions of the Advisory Committee in pursuance of the provisions of this section shall be final.

(5) Where an insurer is guilty of breach of any rate, advantage, term or condition fixed by the Advisory Committee, he shall be deemed to have contravened the provisions of this Act:

Provided that instead of proceeding against the insurer for such contravention, the Controller may, if the insurer removes

the contravention by recovering the deficiency in the premium, or where it is not practicable to do so, modifies suitably or cancels the contract of insurance, compound the offence on payment to the Advisory Committee of such fine, not exceeding rupees one thousand, as he may decide in consultation with the Advisory Committee.

Transitional provisions.

64UD. (1) Notwithstanding anything contained in this Part, until the names of the members of the Advisory Committee elected for the first time after the commencement of the Insurance (Amendment) Act, 1968, are notified, the Tariff Committee of the General Insurance Council appointed under regulations made under sub-section (2) of section 64O as it was in force immediately before the commencement of the Insurance (Amendment) Act, 1968, and in existence on such commencement (hereafter in this Part referred to as the Tariff Committee) shall continue to function and shall be deemed to be the Advisory Committee duly elected under this Part and the Controller of Insurance shall become the Chairman of that Committee with effect from the commencement of the Insurance (Amendment) Act, 1968, and function as such, and any Chairman of the Tariff Committee holding office immediately before such commencement shall cease to be the Chairman thereof from the date of such commencement but shall continue to be an ordinary member of the Advisory Committee.

(2) Notwithstanding anything contained in this Part, the constitutions of the Regional Councils established under section 64P, as in force immediately before the commencement of the Insurance (Amendment) Act, 1968 (hereafter referred to as the Regional Councils), and of the Sectional Committees formed thereunder, existing immediately before such commencement, shall continue to be in full force and be of full effect until the regulations made by the Advisory Committee for the first time under section 64UB come into effect and as soon as such regulations have come into effect such constitutions shall cease to have effect.

(3) Notwithstanding anything contained in this Part, until the Secretary to the Advisory Committee is nominated under sub-section (2) of section 64UA, the Secretary to the Tariff Committee holding office immediately before the commencement of the Insurance (Amendment) Act, 1968, shall function as the Secretary and shall be deemed to have been duly nominated under this Part.

(4) All rates, advantages, terms and conditions fixed by the Tariff Committee or the Regional Councils prior to the com-

mencement of the Insurance (Amendment) Act, 1968 and in force immediately before such commencement shall continue, except to such extent as they may be altered, replaced or abolished by the Advisory Committee, to be valid and fully in force as if they were rates, advantages, terms and conditions fixed by the Advisory Committee.

Power of the Advisory Committee to require information, etc.

64UE. (*1*) The Advisory Committee may require, by notice in writing, any insurer to supply to it such information or statements, periodical or *ad hoc*, as it may consider necessary to enable it to discharge its functions under this Part and every insurer shall comply with such requirements within such period as may be specified by the Advisory Committee in this behalf, failing which the insurer shall be deemed to have contravened the provisions of this Act.

(*2*) Any information supplied under this section shall be certified by a principal officer of the insurer or where the Advisory Committee has agreed in advance, by such other officer or officers of the insurer as the principal officer of the insurer may nominate for the purpose and if the notice so requires, also by an auditor.

(*3*) The Controller may, at any time, in writing, depute any subordinate of his, to make a personal inspection of the books of account, ledgers, policy-registers and other books or documents of any insurer to verify the accuracy of any return or statement furnished by him under sub-section (*1*), or to verify that full particulars have been supplied by him in respect of all policies issued by him, and the insurer shall provide all facilities for such inspection, and make available to such person all the books of account, ledgers, policy-registers and other books or documents of the insurer which might be needed by him for such verification and the person deputed may himself extract from out of the books and records of the insurer such information as may be needed to fill up or complete the returns required to be submitted to the Advisory Committee under this section.

(*4*) The Advisory Committee may, at any time, on the application of an insurer, make arrangements for the inspection of an organisation which is concerned with the inspection of risks, adjustment of losses or fire fighting appliances, and may, whenever necessary, advise insurers about the adequacy of the arrangements for the inspection of risks and adjustment of losses or the suitability of such appliances:

Provided that no such inspection shall be made without the written permission of the concerned organisation.

Assets and liabilities of the general Insurance Council to vest in the Advisory Committee.

64UE. (1) On the commencement of the Insurance (Amendment) Act, 1968, all the assets and liabilities of the General Insurance Council appertaining to its Tariff Committee and to its Regional Councils and their Sectional Committees existing on that day shall be transferred to, and vest in, the Advisory Committee.

(2) The assets appertaining to the Tariff Committee, the Regional Councils, and their Sectional Committees shall be deemed to include all rights and powers and all property, whether movable or immovable, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in, or arising out of, such property as may be in the possession of the Tariff Committee, Regional Councils and their Sectional Committees and all books of account or documents thereof; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind existing and appertaining to the work of the Tariff Committee, the Regional Councils and their Sectional Committees.

(3) Where the General Insurance Council has established a provident or superannuation fund or any other fund for the benefit of the employees of its Tariff Committee or Regional Councils and constituted a trust in respect thereof (hereafter in this section referred to as an existing trust), the monies standing to the credit of any such fund at the commencement of the Insurance (Amendment) Act, 1968, shall, subject to the provisions of sub-section (4), stand transferred to, and vest in, on such commencement, the Advisory Committee.

(4) Where any employee of the Tariff Committee, or the Regional Councils, of the General Insurance Council does not become an employee of the Advisory Committee, the monies and other assets appertaining to any fund referred to in sub-section (3) shall be apportioned between the trustees of the fund and the Advisory Committee in the prescribed manner; and in case of any dispute regarding such apportionment, the decision of the Central Government thereon shall be final.

(5) The Advisory Committee shall, as soon as may be after the commencement of the Insurance (Amendment) Act, 1968 constitute in respect of the monies and other assets which are transferred to, and vested in, it under sub-section (3), one or more trusts having, as far as practicable, objects similar to the objects of the existing trust.

(6) Where all the monies and other assets belonging to an existing trust are transferred to, and vested in, the Advisory Committee under sub-section (3), the trustees of such trust

shall, on the commencement of the Insurance (Amendment) Act, 1968, be discharged from the trust except as respects things done or omitted to be done by them before such commencement.

Contracts, etc., to be effective by or against the Advisory Committee.

64UG. (1) Unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the commencement of the Insurance (Amendment) Act, 1968, and to which the Tariff Committee, or any Regional Council is a party or which is in favour of that Committee or that Council, shall be of as full force and effect against or in favour of the Advisory Committee and may be enforced or acted upon as fully and effectually as if, instead of the Tariff Committee, or the Regional Council, the Advisory Committee had been a party thereto or as if they had been entered into or issued in favour of the Advisory Committee.

(2) If, at the commencement of the Insurance (Amendment) Act, 1968, any suit, appeal or other legal proceeding of whatever nature is pending by or against the Tariff Committee, or any Regional Council then it shall not abate, be discontinued or in any way be prejudicially affected by reason of the transfer to the Advisory Committee of the assets and liabilities of the Tariff Committee, and the Regional Councils or of anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Advisory Committee.

Employees, etc., to continue.

64UH. (1) Every whole-time employee of the Tariff Committee, or the Regional Councils who was employed by that Committee or those Councils wholly or mainly in connection with its or their statutory duties immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, on and from such commencement, become an employee of the Advisory Committee and shall hold his office in it by the same tenure, at the same remuneration, and upon the same terms and conditions and with the same rates and privileges as to pension, gratuity and other matters as he would have held on such commencement if this Part had not been enacted, and shall continue to do so until his employment under the Advisory Committee is terminated or until his remuneration, terms and conditions, are duly altered by the Advisory Committee:

Provided that nothing contained in this sub-section shall apply to any employee who has given notice to the Central Government in writing either prior to or within two months from the commencement of the Insurance (Amendment) Act, 1968, intimating his intention of not becoming an employee of the Advisory Committee.

(2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of pay, remuneration and other terms and conditions of service applicable to employees of the Tariff Committee, or the Regional Councils, it is necessary so to do, or that a reduction in the remuneration payable or revision of the other terms and conditions of service applicable to employees or any class of them is called for, the Central Government may, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947, or in any other law for the time being in force or in any award, settlement, or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable to any employee, the Advisory Committee may terminate his employment by giving him compensation equivalent to three months' remuneration, unless the contract of service with such employee provides for a shorter notice of termination. 14 of 1947.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and shall not affect any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole-time employee of the Tariff Committee, or the Regional Council, on the commencement of the Insurance (Amendment) Act, 1968, or as to whether any employee was employed wholly or mainly in connection with the statutory duties of the Tariff Committee, or any Regional Council, immediately before such commencement, the question shall be referred to the Central Government whose decision thereon shall be final.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee of the Tariff Committee, or the Regional Councils, to the Advisory Committee shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, Tribunal or other authority. 14 of 1947.

Duty of person having custody or control of property to deliver such

64UI. (1) Where any property of the Tariff Committee, or the Regional Councils (appertaining to its or their statutory duties) has been transferred to, and vested in, the Advisory Committee, then,—

(a) every person in whose possession, custody or control any such property may be, shall deliver the property to the Advisory Committee forthwith;

(b) any person, who, on the commencement of the Insurance (Amendment) Act, 1968, has in his possession, custody or control any books, documents and other papers relating to the Tariff Committee, or the Regional Councils, shall be liable to account for the said books, documents and papers to the Advisory Committee and shall deliver them to the Advisory Committee or to such person as that Committee may direct. Transfer of property to the Advisory Committee.

(2) Without prejudice to the provisions contained in this section, it shall be lawful for the Advisory Committee to take all necessary steps for securing possession of all properties which have been transferred to, and vested in, it under this Act.

64UJ. (1) The Advisory Committee may constitute such Regional Committees as and when it deems fit for one or more of the prescribed regions. Power of the Advisory Committee to constitute Regional Committees.

(2) Each Regional Committee shall consist of not more than seven persons of which not more than five shall be elected by such groups of insurers carrying on general insurance business in the region as may be prescribed and not more than two shall be nominated by the Controller.

(3) For the purpose of enabling it effectively to discharge its duties, any Regional Committee may constitute such sub-committees as it may think fit, whether consisting of members of the Regional Committee or not.

(4) It shall be the duty of every Regional Committee to advise the Advisory Committee on any question connected with the fixation of rates, advantages, terms and conditions for risks in its region which may be referred to it by the Advisory Committee for advice, and in addition, every Regional Committee shall perform such other functions as may be delegated to it by the Advisory Committee by regulations made by it with the previous approval of the Central Government.

(5) Where, in the exercise of any functions delegated to it under this section, any Regional Committee or any sub-committee thereof restrains an insurance agent from procuring or causing to be procured general insurance business in any area, such agent may prefer an appeal to the Central Government against such order within thirty days from the date of service of that order on him and the Central Government may, after giving such agent an opportunity of being heard, pass such orders thereon as it may think fit and the orders made by the Central Government on such appeal shall be final.

(6) Notwithstanding anything contained in this section, every Regional Council and every Sectional or other Committee

of such Regional Council, in existence immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, until it is abolished by the Advisory Committee, be deemed to be a Regional Committee or sub-committee as the case may be, established in accordance with the provisions of this section and shall function as such and shall have all the powers and responsibilities which it had immediately before such commencement, and if the term of any such Council or committee expires before Regional Committees constituted under sub-section (*1*) and sub-committees constituted under sub-section (*3*) come into existence, such terms shall be deemed to have been validly extended up to the time when such Regional Committees and sub-committees are established.

Levy of fees by the Advisory Committee

64UK. (*1*) Every insurer shall annually before the prescribed date make payment to the Advisory Committee in the prescribed manner of such fees, not exceeding for any year, in the case of an insurer doing only re-insurance business in India, one per cent. of his total premiums in respect of facultative re-insurance accepted by him in India in the preceding year and, in the case of any other insurer, one per cent. of the total gross premium written direct by him in India in the preceding year, as may be specified by the Advisory Committee for the purpose of this Part.

(*2*) The Advisory Committee may collect, in addition to the fees mentioned in sub-section (*1*), reasonable fees and charges from any person to cover the cost of any specific services rendered by it.

(*3*) If an insurer fails to make payment within the prescribed date of any fee required to be paid under sub-section (*1*) he shall be deemed to have failed to comply with the provisions of this Act.

(*4*) The Controller may, so long as an application to the Court under sub-section (*5D*) of section 3 has not been made, revive the registration which might have been cancelled for failure to make payment of the fee required to be made under sub-section (*1*), if the insurer makes payment of such fee together with such penalty not exceeding the actual amount of fee payable as the Controller may require.

Power to remove difficulties

64UL. If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary

or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of four years from the commencement of this Part.

Licensing of surveyors and loss assessors.

64UM. (*1*) (*A*) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, unless he holds a valid licence issued to him by the Controller.

(*B*) Every person who intends to act as a surveyor or loss assessor after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, shall make an application to the Controller within such time, in such form, in such manner and on payment of such fee, not exceeding rupees two hundred and fifty, as may be prescribed.

(*C*) Every licence issued under this section shall remain in force, unless cancelled earlier, for a period of five years from the date of issue thereof, and may be renewed for a period of five years at a time, on payment of such fee, not exceeding rupees two hundred, as may be prescribed

(*D*) No licence to act as a surveyor or loss assessor shall be issued unless—

(*i*) the applicant, where he is an individual, satisfies the Controller that he—

(*a*) has been in practice as a surveyor or loss assessor on the 26th day of October, 1968, or

(*b*) holds a degree of a recognized University in any branch of engineering, or

(*c*) is a fellow or associate member of the Institute of Chartered Accountants of India or the Institute of Cost and Works Accountants of India, or

(*d*) possesses actuarial qualifications or holds a degree or diploma of any recognized University or Institute in relation to insurance, or

(*e*) holds a diploma in insurance granted or recognized by the Government, or

(*f*) possesses such other technical qualification as may be prescribed, and

(*g*) does not suffer from any of the disqualifications mentioned in sub-section (4) of section 42;

(*ii*) the applicant, where he is a company or firm, satisfies the Controller that all his directors or partners, as the case may be, possess one or more of the qualifications specified in clause (*i*) and none of such directors or partners suffer from any of the disqualifications mentioned in sub-section (*4*) of section 42.

(*E*) Every application for the renewal of the licence shall be made at least thirty days before the expiry of the period of validity thereof.

(*F*) The Controller may, if he is satisfied that any licence issued or renewed under this section has been lost or destroyed, issue a duplicate licence on payment of a fee of rupees five and the duplicate licence so issued shall remain in force for the remainder of the period of validity of the licence in lieu of which it is issued.

(*G*) Without prejudice to the powers conferred by sub-section (7), the Controller, if satisfied that the holder of any licence has made a statement which is false in material particulars with regard to his eligibility for obtaining such licence or has, after the issue or renewal of such licence, acquired any of the disqualifications mentioned in sub-section (4) of section 42, may, after giving a reasonable opportunity to the holder of such licence of being heard, by order cancel such licence and notify such cancellation in the Official Gazette.

(2) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding twenty thousand rupees in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, shall, unless otherwise directed by the Controller, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor"):

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.

(3) The Controller may, at any time, in respect of any claim of the nature referred to in sub-section (2), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Controller within such time as may be specified by the Controller or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.

(4) The Controller may, on receipt of a report referred to in sub-section (3), issue such directions as he may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:

Provided that where the Controller issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Controller that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due despatch by him:

Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Controller is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:

Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.

(5) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, pay to any person any fee or remuneration for surveying, verifying or reporting on a claim of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.

(6) Where, in the case of a claim of less than twenty thousand rupees in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss

and may pay such reasonable fee or remuneration to the person so employed as he may think fit.

(7) If the Controller is satisfied that an approved surveyor or loss assessor has been guilty of wilfully making a false statement knowing it to be false or of being knowingly a party to the settlement of a claim in a fraudulent manner, he may, after giving such surveyor or loss assessor an opportunity of being heard, cancel the licence issued to him with effect from such date as may be specified by him and shall notify such cancellation in the Official Gazette.

(8) Any surveyor or loss assessor whose licence has been cancelled shall not be eligible for having a licence to act as a surveyor or loss assessor for a period of three years from the date on which the cancellation is notified in the Official Gazette.

(9) The Controller may in respect of any claim of value of less than twenty thousand rupees on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Controller makes such direction, the provisions of sub-sections (3) and (4) shall apply in respect of such claim.

(10) Where, in relation to any class of claims, the Central Government is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order published in the Official Gazette, exempt such class of claims from the operation of this section.

PART IIC

SOLVENCY MARGIN, ADVANCE PAYMENT OF PREMIUM AND RESTRICTIONS ON THE OPENING OF A NEW PLACE OF BUSINESS

Assets and liabilities how to be valued.

64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA,—

(i) assets shall be valued at values not exceeding their market or realisable value and the assets hereafter mentioned shall be excluded to the extent indicated, namely:—

(a) agents' balances and outstanding premiums in India, to the extent they are not realised within a period of thirty days;

(b) agents' balances and outstanding premiums outside India, to the extent they are not realisable;

(*c*) sundry debts, to the extent they are not realisable;

(*d*) advances of an unrealisable character;

(*e*) furniture, fixtures, dead stock and stationery;

(*f*) deferred expenses;

(*g*) profit and loss appropriation account balance and any fictitious assets other than pre-paid expenses;

(*ii*) a proper value shall be placed on every item of liability and liabilities in respect of share capital, general reserve and other reserves of similar nature not created to meet specific liabilities and investment reserve, reserve for bad and doubtful debts, and depreciation fund shall be excluded and liabilities hereafter mentioned shall be included to the extent indicated, namely:—

(*a*) provision for dividends declared or recommended, and outstanding dividends in full;

(*b*) reserves for unexpired risks in respect of—

(*i*) fire and miscellaneous business, 40 per cent.,

(*ii*) marine cargo business, 40 per cent., and

(*iii*) marine hull business, 100 per cent.,

of the premium, net of re-insurances, during the preceding twelve months;

(*c*) estimated liability in respect of outstanding claims, in full;

(*d*) amount due to insurance companies carrying on insurance business, in full;

(*e*) amounts due to sundry creditors, in full;

(*f*) provision for taxation, in full.

Explanation.—In the case of an insurer whose principal place of business or domicile is outside India, where, in the accounts filed with the public authority of the country in which the insurer is constituted, incorporated or domiciled, in respect of marine insurance business, the provisions for unexpired risks and outstanding claims are not shown separately, the liabilities under items (*b*) and (*c*) of clause (*ii*) in respect of marine insurance business shall be taken together at a figure of not less than the total premium less

re-insurances in respect of that class of business during the preceding twelve months.

(2) Every insurer shall furnish to the Controller with his returns under section 15 or section 16, as the case may be, a statement certified by an auditor, of his assets and liabilities assessed in the manner required by this section as on the 31st day of December of the preceding year.

Sufficiency of assets.

64VA. (1) An insurer shall, at all times, maintain an excess of the value of his assets over the amount of his liabilities of not less than the amount arrived at as follows (hereafter in this section referred to as the "relevant amount"), namely:—

(i) in the case of an insurer whose total premium income less re-insurances in respect of general insurance business (hereafter in this sub-section referred to as the "said income") in the preceding twelve months did not exceed five crores of rupees, one-fifth of the said income subject to a minimum of—

(a) five lakhs of rupees in the case of an insurer who is a co-operative society registered under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies, or

2 of 1912.

(b) ten lakhs of rupees in the case of any other insurer; and

(ii) in the case of an insurer whose said income in the preceding twelve months exceeded five crores of rupees, the aggregate of one-fifth of the first five crores of rupees of the said income and one-tenth of the amount by which the said income in the preceding twelve months exceeded five crores of rupees:

Provided that where a number of insurers occupying the status of parent and subsidiary companies prepare, under the laws of the country of origin of the parent company, a consolidated balance-sheet, the provisions of this sub-section shall apply to such of them as are not members of any group as if they constituted a single insurer, subject to the further condition that the relevant amount shall, in no case, be less than a sum equal to,—

(i) the number of such insurers multiplied by ten lakhs of rupees, or

(*ii*) where all the insurers are co-operative societies registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in any State relating to co-operative societies, the number of such insurers multiplied by five lakhs of rupees:

2 of 1912.

Provided further that if in respect of any insurer the Central Government is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section would cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this sub-section shall apply to that insurer with the modification that instead of the proportion of one-fifth, wherever mentioned in this sub-section, such other proportion being not less than one-tenth as may be specified by that Government shall be applicable to that insurer:

Provided also that in the case of an insurer carrying on insurance business at the commencement of the Insurance (Amendment) Act, 1968, it shall be sufficient compliance with the provisions of this sub-section until the 31st December, 1972 or until such subsequent date, not being later than 31st December, 1976, as the Central Government may, at its discretion, allow for any particular insurer, if he progressively brings up the excess of the value of his assets over the amount of his liabilities, in such manner as may be prescribed, to the relevant amount.

(*2*) An insurer who does not comply with the provisions of sub-section (*1*) shall be deemed to be insolvent and may be wound up by the court.

(*3*) The Controller shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets and liabilities of any insurer or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date and the insurer shall comply with any requisition made in this behalf by the Controller, and if he fails to do so within two months from the receipt of the requisition, he shall be deemed to have made default in complying with the requirements of this section.

(*4*) The provisions of this section shall not apply to an insurer specified in sub-clause (c) of clause (*9*) of section 2.

(5) In applying the provisions of sub-section (*1*) to any insurer, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India, shall comply with the requirements of sub-section (*1*) as if he had not been an insurer in a group at any time:

Provided further that it shall be sufficient compliance with the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group:

Provided also that the Central Government may, on sufficient cause being shown, extend the said period of six months by such further periods as it may think fit, so however that the total period may not in any case exceed one year.

(*6*) The Central Government may, by notification in the Official Gazette, reduce the sum of ten lakhs of rupees or five lakhs of rupees, as the case may be, referred to in sub-section (*1*) to a lower figure not less than one hundred thousand rupees in respect of a country craft insurer or in respect of an insurer not having a share capital and carrying on only such insurance business as, in the opinion of the Central Government, is not carried on ordinarily by insurers under separate policies.

No risk to be assumed unless premium is received in advance.

64VB. (*1*) No insurer shall assume any risk in India in respect of any insurance business on which premium is not ordinarily payable outside India unless and until the premium payable is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed or unless and until deposit of such amount as may be prescribed, is made in advance in the prescribed manner.

(*2*) For the purposes of this section, in the case of risks for which premium can be ascertained in advance, the risk may be assumed not earlier than the date on which the premium has been paid in cash or by cheque to the insurer.

Explanation.—Where the premium is tendered by postal money order or cheque sent by post, the risk may be assumed on the date on which the money order is booked or the cheque is posted, as the case may be.

(*3*) Any refund of premium which may become due to an insured on account of the cancellation of a policy or alteration in its terms and conditions or otherwise shall be paid by the insurer directly to the insured by a crossed or order cheque or by postal money order and a proper receipt shall be obtained by the insurer from the insured, and such refund shall in no case be credited to the account of the agent.

(*4*) Where an insurance agent collects a premium on a policy of insurance on behalf of an insurer, he shall deposit with, or despatch by post to, the insurer, the premium so collected in full without deduction of his commission within twenty-four hours of the collection excluding bank and postal holidays.

(*5*) The Central Government may, by rules, relax the requirements of sub-section (*1*) in respect of particular categories of insurance policies.

Restrictions on the opening of a new place of business.

64VC. (*1*) No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968, open a new place of business in India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India without obtaining the prior permission of the Controller.

(*2*) The Controller may grant permission under sub-section (*1*) subject to such conditions as he may think fit to impose either generally or with reference to any particular case.

(*3*) Where, in the opinion of the Controller, an insurer has, at any time, failed to comply with any of the conditions imposed on him under this section, the Controller may, by order in writing and after affording reasonable opportunity to the insurer for showing cause against the action proposed to be taken against him, revoke any permission granted under this section.

Explanation.—For the purposes of this section, "place of business" includes a branch, sub-branch, inspectorate, organisation office and any other office, by whatever name called.'.

Amendment of section 96.

30. In section 96 of the principal Act, the words "Mutual Insurance Companies and" shall be omitted.

Amendment of section 97.

31. In section 97 of the principal Act, for the words and figures "No Mutual Insurance Company incorporated after the 26th day of January, 1937, and no Co-operative Life Insurance Society registered after that date", the words and figures "No Co-operative Life Insurance Society registered after the 26th day of January, 1937" shall be substituted.

Amendment of section 98.

32. In section 98 of the principal Act,—

(*a*) in sub-section (*1*), the words "Mutual Insurance Company and every" shall be omitted;

(*b*) in sub-section (*3*), the words "a Mutual Insurance Company and" shall be omitted.

Insertion of new section 101C.

33. After section 101B of the principal Act, the following section shall be inserted, namely:—

Examination of re-insurance treaties.

"101C. The Controller may, at any time,—

(*a*) call upon an insurer to submit for his examination at the principal place of business of the insurer in India all re-insurance treaties and other re-insurance contracts entered into by the insurer;

(*b*) examine any officer of the insurer on oath in relation to any such document as is referred to in clause (*a*) above; or

(c) by notice in writing, require any insurer to supply him with copies of any of the documents referred to in clause (*a*), certified by a principal officer of the insurer.".

Amendment of section 102.

34. In section 102 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If any person fails to produce any book, account or other document or to furnish any statement or information which, under sub-section (*2*) of section 33 or under sub-section (*3*) of section 64UE, it is his duty to produce or furnish, or to answer any question relating to the business of an insurer which he is asked by an officer making an inspection under either of those sections, he shall be punishable with fine which may

extend to two thousand rupees in respect of each failure and if the failure continues, to a further fine which may extend to one hundred rupees for each day after the first, during which such failure continues.".

Insertion of new section 107A.

35. After section 107 of the principal Act, the following section shall be inserted, namely:—

Chairman, etc., to be public servants.

"107A. Every whole-time Chairman, whole-time director, auditor, liquidator, manager and any other employee of an insurer shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.".

45 of 1860.

Amendment of section 109.

36. Section 109 of the principal Act shall be re-numbered as sub-section (*1*) thereof and, after sub-section (*1*), as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) No court shall take cognizance of any offence punishable under sub-section (*4*) of section 34B or sub-section (*1A*) of section 102 except upon complaint in writing made by an officer of the Central Government generally or specially authorised in writing, in this behalf by the Controller, and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.".

Insertion of new sections 110D, 110E, 110F, 110G and 110H.

37. After section 110C of the principal Act, the following sections shall be inserted, namely:—

Certain claims for compensation barred.

"110D. No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions contained in section 34 or section 34A or section 34E or section 37A or by reason of the compliance by an insurer with any order or direction given to him under this Act.

Sections 3A, 27B, 28B, 33, etc., to apply to general insurance business of the Life

110E. Notwithstanding anything contained in the Life Insurance Corporation Act, 1956, the provisions of sections 3A, 27B, 28B, 33, 34, clause (*a*) of section 34E, 34F, 40C, 44A, 64U to 64UM (both inclusive), 64V, 64VA, 64VB, 64VC, 101A, 101C, 110D, 110G and 110H, shall also apply, so far as may be, to and in relation to the general insurance business carried on by the Life Insurance Corporation of India and the provisions of section 37A

31 of 1956.

Insurance Corporation of India.

shall also apply to that Corporation if it becomes an acquiring insurer.

Provisions applicable to State Governments, etc.

110F. The provisions of sections 3, 3A, 27B, 28B, 33, 34, clause (*a*) of section 34E, 34F, 40A, 40C, 44A, 64U to 64UM (both inclusive), 64V, 64VA, 64VB, 64VC and 101A, 101C, 110D, 110G and 110H shall, notwithstanding any exemption granted under section 118, also apply, so far as may be, to and in relation to the general insurance business carried on by a State Government or a Government company as defined in section 617 of the Companies Act, 1956. 1 of 1956.

Constitution of Consultative Committee.

110G. (*1*) The Central Government shall constitute a Consultative Committee consisting of the Controller (who shall be the Chairman thereof) and not more than four other members having special knowledge and experience of the business of insurance.

(*2*) The term of office of, and the allowances payable to the members of the Consultative Committee, the procedure to be followed by, and the quorum necessary for the transaction of business of, the Consultative Committee and the manner of filling casual vacancies therein shall be such as may be prescribed.

(*3*) Before making any order under sections 34, 34A, 34B, 34C, 34E, 34F, 34G, sub-sections (*4*) and (*7*) of section 64UM and section 64VC, the Controller shall consult the Consultative Committee constituted under sub-section (*1*).

Appeals.

110H. (*1*) Any person aggrieved by any order made by the Controller under sections 34, 34A, 34B, 34C, 34E, 34F, 34G, sub-sections (*1*), (*4*) and (*7*) of section 64UM or section 64VC may, within a period of thirty days from the date of such order prefer an appeal against such order to the Central Government and that Government may, by order, confirm, modify or reverse the order made by the Controller and the order so made by the Central Government shall be final.

(*2*) No claim for compensation shall lie in favour of any person for anything done in pursuance of an order of the Controller so long as such order was effective.

(*3*) The Central Government may, on the application of an appellant, stay, until the decision of the appeal, the operation

of any order made under section 34 or sub-section (5) of section 34B or sub-clause (*v*) of clause (*b*) of section 34E.".

Amendment of section 116A.

38. In section 116A of the principal Act, in the proviso, for the word, figures and letter "section 28A", the words, figures and letters "section 28A or section 28B" shall be substituted.

Amendment of Form F in Third Schedule.

39. For clause (*a*) under Notes, below Form F of Part II of the Third Schedule, the following shall be substituted, namely:—

"(*a*) This item must include all expenses directly incurred in relation to assessment of claims of the nature of survey fees, fees for police reports, legal fees, court expenses and other similar charges, but should not include any establishment or administration expenses except in so far as they relate to any employee exclusively employed on survey or assessment of losses.".

Insertion of Eighth Schedule.

40. After the Seventh Schedule to the principal Act, the following Schedule shall be inserted, namely:—

'THE EIGHTH SCHEDULE

(*See* section 52J)

PRINCIPLES OF COMPENSATION

The compensation to be given under section 52J shall be an amount equal to the value of the assets of the acquired insurer as on the day immediately before the appointed day, computed in accordance with the provisions of Part I of this Schedule *less* the total amount of liabilities thereof as on that day, computed in accordance with the provisions of Part II of this Schedule.

PART I

Assets

For the purposes of this Part, "value of assets" means the total of the following:—

(*a*) the market value of any land or buildings;

(*b*) the market value of any securities, shares, debentures, bonds and other investments, held by the acquired insurer.

Explanation.—For the purposes of this clause,—

(*i*) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their encashable value as on the appointed day;

(*ii*) where the market value of any Government security such as the zamindari abolition bonds or other similar security, in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such an amount as is considered reasonable, having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(*iii*) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;

(*iv*) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable, having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;

(c) the total amount of the premiums paid by the acquired insurer in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(*d*) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;

(*e*) the amount of debts due to the insurer, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;

(*f*) the amount of cash held by the insurer whether in deposit with a bank or otherwise;

(*g*) the market or realisable value, as may be appropriate, of other assets appearing on the books of the insurer, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

PART II

Liabilities

The total amount of the liabilities of the insurer shall include—

(*i*) reserves for unexpired risks being in respect of each policy, such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid;

(*ii*) the total amount of all other liabilities of the insurer existing on the appointed day, including all contingent liabilities which the Central Government or the acquiring insurer may reasonably be expected to be required to meet out of its own resources on or after the appointed day.

CERTAIN DIVIDENDS NOT TO BE TAKEN INTO ACCOUNT

No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the appointed day, for which, in the ordinary course, profits would have been transferred or dividend declared after the appointed day.'.

Amendment of Act 21 of 1965.

41. In section 32 of the Payment of Bonus Act, 1965, in clause (*i*), the words "employees employed by any insurer carrying on general insurance business and the" shall be omitted.

V. N. BHATIA,
Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1968